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STATE FOR WHA/PPC, WHA/AND, AND G/TIP

E.O. 12958: N/A

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SUBJECT: SUBMISSION FOR 2005 TIP REPORT

REF: SECSTATE 273089

1. Summary: Ecuador continues to take steps to combat trafficking in persons (TIP). Since issuing a presidential decree in August 2004, the government has drafted a national plan, increased public awareness of the problem, and reached out to source and destination countries. The GOE has cooperated with the International Labor Organization (ILO) to establish a center for TIP victims in Machala, and trained police and other employees about TIP. Congress debated the first draft of an anti-trafficking bill, and in the meantime authorities have prosecuted and sentenced child pornographers under existing laws. The police have stepped up raids on nightclubs and bars where minors work as prostitutes, returning numerous TIP victims to their families. The inter-institutional committee meets regularly to coordinate the GOE's plan and actions against TIP. Despite these steps, key challenges remain: passing pending legislation in a distracted Congress, using the new law to investigate and prosecute traffickers, finalizing the national plan, and providing victims services. Responses below are keyed to questions in RefTel. End Summary.

#### Overview of Activities to Eliminate TIP

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2. A-B: Is the country a country of origin, transit or destination for international trafficked men, women, or children? There is a lack of reliable or detailed information available on trafficking in persons\*-domestically and especially internationally. Ecuador is a country of origin and destination, and possibly of transit, for victims of trafficking. Last year's report indicated victims may be trafficked to Spain, but we have no new information to substantiate this. Despite the high numbers of Ecuadorians living in the U.S. illegally (1.6 million), U.S. authorities have not brought to the Embassy's attention any trafficking cases involving Ecuadorian culprits or victims in the U.S.

3. A-B: The ABA collected anecdotal evidence on trafficking patterns. There was no estimate of the number of victims. The report indicated that some women were trafficked as prostitutes from Colombia to Ecuador and that some boys were victims of sexual exploitation of minors, especially at hotels. Banana plantations, mines, and the shrimp industry are believed to exploit people for forced labor by the ABA, but due to a shortage of labor inspectors, we have very little information.

4. A-B: Until credible new evidence shows otherwise, current information indicates the highest incidence of trafficking occurs domestically via prostitution of minors between 14-18 years of age. Once the law is passed changing the legal age of consent for prostitution to 18, the GOE will have a legal basis to combat this aspect of the problem.

5. C: Have there been any changes in the direction or extent of trafficking? We have no information indicating trafficking patterns have changed.

6. D: Are any efforts or surveys planned or underway to document the extent and nature of trafficking in the country? The only new information available is the ABA report. (See paragraph 3.) No additional surveys are planned.

7. E: If the country is a destination point for trafficked victims, what kind of conditions are the victims trafficked into? Victims are believed to be trafficked into prostitution. No additional information is available.

8. F: If the country is a country of origin, which populations are targeted by the traffickers? Some victims may choose to immigrate illegally and then become victims of trafficking along the way. Families or friends often encourage girls to participate in prostitution due to dire economic circumstances. False documents are common and easily obtained.

9. G: Is there political will at the highest levels of government to combat trafficking in persons? Yes, political will exists at the highest levels of government to combat TIP. The GOE has increased its focus on combating TIP, but is also facing other pressing problems, including political

instability, and poverty. President Gutierrez issued a decree in August 2004, denouncing TIP and related crimes and forming an inter-institutional committee to combat it. The president and Minister of Government have repeatedly expressed the GoE's commitment to combat TIP. Minister of Foreign Affairs Patricio Zazuquilda on February 14, 2005, wrote the Ambassador a letter highlighting the GoE's efforts to combat trafficking and its ongoing commitment to end this atrocity. The inter-institutional committee to combat trafficking has met regularly since January and written a draft national action plan. The municipal government of Machala has cooperated with the ILO to provide new victim's services. A government-private roundtable on sexual exploitation continues to meet and work to change relevant laws. However, political instability and other problems make it difficult for the government to focus on trafficking.

10. H: Do governmental authorities or individual members of government forces facilitate or condone trafficking? The USG has no information on GOE officials facilitating or condoning trafficking. However, GOE officials have been accused of facilitating alien smuggling. Although Police General Jorge Poveda was publicly accused of alien smuggling, no charges were ever filed against him.

11. I: What are the limitations on the government's ability to address this problem in practice? The government faces many limitations to its ability to address TIP fully in practice. Due to Ecuador's widespread poverty and the government's difficult fiscal situation, the GOE does not have the resources to adequately address the country's many social and criminal problems. The police and other justice system institutions do not have the resources necessary to combat the level of crime they face. In addition to government resource constraints, corruption is widespread and pervasive. The GOE has begun to implement justice system and anti-corruption reforms. However, these reforms have not yet resulted in a significant decrease in corruption.

12. J: To what extent does the government systematically monitor its anti-trafficking efforts (on all fronts -- prosecution, prevention and victim protection) and periodically make available, publicly or privately and directly or through regional/international organizations, its assessments of these anti-trafficking efforts? CONAMU (the National Commission on Women) provided a written report of its activities to the inter-institutional committee against trafficking in January. Through the same commission, the government has begun to assess its efforts to combat TIP. The committee issued a report internally and to the Embassy documenting its efforts. DINAPEN reports on its efforts to rescue minors from prostitution bi-weekly.

13. K: Is prostitution legalized or decriminalized? Regulated prostitution is legal in Ecuador, and the age of consent is 14. If a person facilitates the prostitution of another person, without following the government regulations, the sanction is one to three years of imprisonment; this provision could be used to prosecute traffickers. If a person facilitates the prostitution of a minor under the age of 14, or uses violence or coercion to force someone to engage in prostitution, the penalty is six to nine years imprisonment. The Code of Children and Adolescents, that went into effect in July 2003, explicitly defines commercial sexual exploitation of minors as applying to anyone under the age of 18; however, the penal code has not yet been reformed to match. The GOE is working on reforms to the penal code with USG, ABA, and UNICEF's assistance.

#### Prevention -----

14. A: Does the government acknowledge that trafficking is a problem in that country? Government officials at all levels and across all ministries acknowledge the TIP problem. They are particularly concerned about internal child prostitution and acknowledge the potential for international trafficking to be a problem, given the high levels of emigration from Ecuador.

15. B: Which government agencies are involved in anti-trafficking efforts? The GOE agencies involved include: 1) The Ministry of Government, which chairs the inter-institutional committee; 2) the National Commission on Women; 3) the Ministry of Foreign Affairs; 4) Attorney General's Office; 5) the Presidency; 6) the Ministry of Education; 7) the Ministry of Social Welfare; 8) the Ministry of Labor; 9) the Ministry of Public Health; 10) the Ministry of Social Welfare; 11) The National Institute for Children and the Family (INNFA); and 12) the police dedicated to protecting children (DINAPEN).

16. C: Are there or have there been government-run anti-trafficking public information or public education campaigns? The media has published numerous articles about trafficking, child prostitution, and pornography. Former

minister of government Raul Baca publicly described pending legal reforms and the GoE's commitment to combat TIP in an interview by a national newspaper in August 2004. Other articles highlighted the contents of the presidential decree to against TIP.

17. D-E: Does the government support other programs to prevent trafficking? (e.g., to promote women's participation in economic decision-making or efforts to keep children in school.) CONAMU and DINAPEN created a paper system to track victims of commercial sexual exploitation of minors. The GOE also has programs aimed at preventing problems related to trafficking, and they may provide alternatives to those at risk of becoming trafficking victims. There are programs to keep children in school and aid those at risk of child labor, as well as limited programs to improve the economic situation of women. The Ministry of Public Health has a program to prevent, detect, and aid victims of child abuse. The police say they have increased control of false documents in places where prostitution is legal, but we are not aware this has actually happened. Banana and flower social forums bring government, NGO, IO, union and business leaders together to discuss child labor. Ecuador's economic situation limits the GoE's ability to support social programs in general, including programs that may help prevent trafficking.

18. F: What is the relationship between government officials, NGOs, other relevant organizations and other elements of civil society on the trafficking issue? The roundtable on sexual exploitation includes members of civil society. The committee on trafficking has invited members of civil society, such as the ABA and the ILO, to speak at its meetings. As the work on the issue continues to evolve, increased cooperation is expected to occur.

19. G: Does the government adequately monitor its borders? Does it monitor immigration and emigration patterns for evidence of trafficking? The GOE cannot adequately monitor its porous borders. Ecuador has a relatively long coastline, and much of its borders with Colombia and Peru are in remote areas and difficult to monitor. The GOE increased the police presence on the northern border, but is still unable to effectively monitor the entire border. Given the limited information on international TIP, the GOE has not specifically monitored migration patterns to determine if there is evidence of TIP.

20. H: Is there a mechanism for coordination and communication between various agencies, such as a multi-agency working group or a task force? The anti-trafficking international committee to combat TIP has members from 10 government agencies as mentioned above. The members are committed to combating the problem and have been meeting frequently since January.

21. H: The GoE's primary anti-corruption body has been the Commission for the Civic Control of Corruption (CCCC), which investigates corruption but does not have the authority to issue sanctions. In 2003 President Gutierrez formed the Anti-Corruption System (SAE). This inter-agency task force includes the GoE's Controller, Attorney General, Chief Prosecutor, Human Rights Ombudsman, Banking, Telecommunications and Companies Superintendencies, and members of Congress. The SAE is charged with coordinating policies, plans and programs to eradicate corruption. Neither organization was very active in 2004.

22. I: Does the government coordinate with or participate in multinational or international working groups or efforts to prevent, monitor, or control trafficking? The MFA organized seminars in Quito with the UN-ODCP in October 2004 and with the French Embassy in November 2004. Ecuadorian embassies and consulates, especially those in Spain, Austria, the U.S., and several Latin American countries, work with their host governments and the United Nations to combat trafficking.

23. J: Does the government have a national plan of action to address trafficking in persons? The GOE drafted a TIP plan and expected to approve it in early March. All members of the inter-institutional committee on trafficking gave input for the plan. However, the February 22, 2005 change of Minister of Government (as head of the committee) will delay its approval.

24. K: Is there some entity or person responsible for developing anti-trafficking programs within the government? The presidential decree to combat trafficking charges the Minister of Government with coordinating GOE efforts to combat trafficking; the Presidential Legal Advisor serves as secretary to the inter-institutional committee. Ministry

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staff have worked diligently to draft the national action plan and to support the committee's work.

Investigation and Prosecution of Traffickers

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125. A-B: Does the country have a law specifically prohibiting trafficking in persons--both trafficking for sexual exploitation and trafficking for non-sexual purposes (e.g. forced labor)? Ecuador's laws on TIP remain unchanged from last year. However, Congress is reviewing a proposal to reform the criminal code to penalize traffickers and raise the age of consent for prostitution to 18. Article 23 of the constitution explicitly prohibits slavery and trafficking in persons in all forms. The Code of Children and Adolescents, prohibits trafficking and the sexual exploitation of minors under the age of 18; however, Congress has not yet passed penal code reforms to match. There are effectively no alternative laws strong enough to provide penalties for TIP.

126. C: What are the penalties for rape or forcible sexual assault? Penalties for rape or forcible sexual assault range from one to 25 years imprisonment, depending on the circumstances. Sentences are higher when the victim is under the age of 14.

127. D: Has the Government prosecuted any cases against traffickers? If so, provide numbers of investigations, prosecutions, convictions, and sentences, including details on plea bargains and fines, if relevant and available. In a key TIP-related case, the perpetrators in the Burdet-Cedeno child pornography ring were convicted on October 19, 2004, on four charges of raping minors with sentences of 12 to 25 years. On September 24, 2004, Ecuadorian citizen and U.S. legal permanent resident Angel Mariscal was also sentenced to 100 years on 7 charges of child pornography.

128. E: Is there any information or reports of who is behind the trafficking? For example, are the traffickers freelance operators, small crime groups, and/or large international organized crime syndicates? Many domestic victims of trafficking are child prostitutes, most of whom work legally and with their parents, knowledge and consent. An ILO report on commercial sexual exploitation of minors indicates that many began to work in the commercial sex industry through contacts with relatives or friends. Due to the lack of information on international TIP in general, there is no specific information on who might be behind it.

129. E: There is little information about TIP networks, but DHS reports that there are criminal networks that smuggle Ecuadorians and third country nationals to the U.S. and Western Europe. These networks have international contacts in Central America, Mexico, the U.S. and Europe. The networks sometimes operate through travel agencies.

130. F: Does the government actively investigate cases of trafficking? The GOE sends us weekly reports of raids DINAPEN conducts throughout the country looking for TIP victims. However, due to the lack of legislation criminalizing TIP and the police's lack of resources and knowledge of investigative techniques, police typically are unable to collect evidence to prosecute traffickers, and existing legislation is inadequate to prosecute. DINAPEN is committed to fighting TIP and has requested additional training from the Embassy. They have already received training on internet child pornography investigation techniques and commercial sexual exploitation of minors. We continue to look for further opportunities for collaboration and training with the American Bar Association is planned for the near future.

131. G: Does the government provide any specialized training for government officials in how to recognize, investigate, and prosecute instances of trafficking? The ILO and Ministry of Government jointly funded training for DINAPEN on the commercial sexual exploitation of minors. DINAPEN's regional director in Quito continues to lobby for additional training for her employees on trafficking and how to recognize and work with victims they may find. DHS has provided DINAPEN with training on investigating child pornography. (See preceding paragraph.) At the TIP inter-institutional committee's request, the ABA recently gave the group a training session on the differences between trafficking and alien smuggling and facilitated a workshop on developing a national plan.

132. H: Does the government cooperate with other governments in the investigation and prosecution of trafficking cases? GOE officials have expressed willingness to cooperate with other governments in the investigation and prosecution of trafficking cases. The Ministry of Foreign Affairs met with officials from the embassies of Peru and Colombia in December 2003 to discuss cooperation and has promised to schedule another meeting in early March with representatives from the countries and Spain. Ecuadorian embassies and consulates have met with host government counterparts in Spain, Peru, Colombia, and other Latin American countries to discuss the problem and copies of their national plans.

133. I: Does the government extradite persons who are charged with trafficking in other countries? Ecuador's constitution prohibits Ecuadorian citizens from being extradited to other countries. Citizens of other countries could be extradited. Unfortunately the GOE has not complied with USG requests to deport accused child pornographer Joseph Day.

134. J: Is there evidence of government involvement in or tolerance of trafficking, on a local or institutional level? There is no evidence of GOE involvement in or tolerance of TIP, on a local or institutional level. Allegations of police tolerance of alien smuggling are under investigation.

135. K: If government officials are involved in trafficking, what steps has the government taken to end such participation? We are unaware of any trafficking cases involving public officials.

136. L: If the country has an identified child sex tourism problem (as source or destination), how many foreign pedophiles has the government prosecuted or deported/extradited to their country of origin? Some child sex tourism may occur in Ecuador in coastal areas, but no strong evidence exists.

137. M: Has the government signed, ratified, and/or taken steps to implement the following international instruments?

--ILO Convention 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labor. Signed June 17, 1999 and ratified July 1, 2000.

--ILO Convention 29 and 105 on forced or compulsory labor. ILO Convention 29 was ratified June 7, 1954. ILO Convention 105 was ratified May 2, 1962.

--The Optional Protocol to the Convention on the Rights of the Child (CRC) on the sale of children, child prostitution, and child pornography. Signed September 6, 2000, and ratified January 30, 2004.

--The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime. Signed December 13, 2000 and ratified September 17, 2002.

#### Protection and Assistance to Victims

138. A: Does the government assist victims, for example, by providing temporary to permanent residency status, relief from deportation, shelter and access to legal, medical and psychological services? The proposed legal code reform prevents TIP victims from being deported for migration violations. Pregnant women and children under five years of age receive free medical care, so some TIP victims would be covered in this program.

139. B: Does the government provide funding or other forms of support to foreign or domestic NGOs for services to victims? The government has very little funding for social programs in general and does not yet fund programs in this area.

140. C: Is there a screening and referral process in place, when appropriate, to transfer victims detained, arrested or placed in protective custody by law enforcement authorities to NGO's that provide short- or long-term care? Ecuador is still beginning its work on victims, services and once the law is passed will likely begin coordination between the police and victims, services, providers.

141. D: Are the rights of victims respected, or are victims also treated as criminals? Victims of commercial sexual exploitation of minors are not detained or treated as criminals, as prostitution is legal in Ecuador. In cases where they have false documents (often proof of age), they are fined for falsification of documents. Victims of commercial sexual exploitation of minors are typically returned to their families. We are not aware of any cases where international trafficking victims were jailed or deported by the GoE.

142. E: Does the government encourage victims to assist in the investigation and prosecution of trafficking? Victims of trafficking can file civil suits against traffickers without legal impediment. However, the inefficient and corrupt judicial system might discourage victims from filing suits. There is no victim restitution program.

143. F: What kind of protection is the government able to provide for victims and witnesses? The government does not have any shelters but has cooperated with the ILO to begin a victims center in Machala. The attorney general's office has said it plans to provide to protection to victims who



testify. To date, the government affords little protection to witnesses of any crimes, due to its resource constraints.

144. G: Does the government provide any specialized training for government officials in recognizing trafficking and in the provision of assistance to trafficked victims, including the special needs of trafficked children? The MFA provides basic information on trafficking as part of its general training on international affairs. All embassies and consulates were made aware of the ratification of the Palermo Convention,s protocols. Ecuador,s embassy in Spain has worked with a Spanish NGO to try to develop projects related to child prostitution.

145. H: Does the government provide assistance, such as medical aid, shelter, or financial help, to its repatriated nationals who are victims of trafficking? The GOE does not provide assistance to repatriated nationals who are victims of trafficking.

146. I: Which international organizations or NGOs, if any, work with trafficking victims? The ILO has begun setting up a daytime center for TIP victims in Machala and has begun planning centers in Quito and Guayaquil. Former Minister of Government Baca's office worked closely with the ILO in this undertaking. The municipal government of Machala also cooperates with the ILO. Defensa de los Ninos Internacional has begun work with trafficking victims in Santo Domingo de los Colorados. NGO "Geneva Global" awarded grants to five NGOs in Ecuador in December 2004 to provide services to victims.

147. Embassy point of contact for TIP issues is Mary-Elizabeth Knapp, (593)(2)256-2890 ext. 4424 or post IVG number is 644, Fax (593)(2)254-0712, e-mail: knappm@state.gov.

148. Hours spent in preparation of this report: Political Section Chief (FS 2): 4 hours; Political officer (FS 5): 30 hours; Political FSN (FSN 9): 10 hours. (Note: Other post members, from the Ambassador and DCM on down, worked on TIP issues during the year; the hours listed above are solely for the preparation of this report.)  
KENNEY